

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed May 21, 2008. At the time of the Office Action, Claims 1-25 were pending in the Application and stand rejected. Applicant amends several Independent Claims without prejudice or disclaimer. The amendments to these claims are not the result of any Prior Art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 102 Rejection

The Examiner rejects Claims 1, 4-9, 13-15, and 18-22 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,675,782 issued to Montague et al. (hereinafter "Montague"). This rejection is respectfully traversed for the following reasons.

Independent Claims 1 and 15 are Patentable over Montague

Applicant respectfully reminds the Examiner that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.¹ In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim."² In regard to inherency of a reference, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic."³ Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support

¹ *Verdegal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

² *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

³ MPEP §2112 (citing *In re Hjeltnet*, 9 F.3d 1531, 1534, 28 USPQ 2d 1995, 1997 (Fed. Cir. 1993) (*emphasis in original*)).

the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.⁴

Independent Claim 1, as amended, recites:

A method for regulating access to an object comprising the steps of:
for a plurality of users, allowing each user to designate the relationship characteristics between that user and any other user;
identify one of the plurality of users as an owner of the object;
determining if a selected one of the plurality of users has access to the object by determining if the relationship characteristics on at least one path between the selected one of the plurality of users and the owner of the object is a trusted relationship between each of the users on that path, *wherein said path includes at least one additional user beside said owner of the object and the selected one of the plurality of users, and access to the object for the additional user is granted by the selected one, and wherein the additional user defines additional relationship characteristics that grant access to additional objects being held by the additional user.*

No reference of record, including *Montague*, offers an architecture in which "...wherein said path includes at least one additional user beside said owner of the object and the selected one of the plurality of users, and access to the object for the additional user is granted by the selected one, and wherein the additional user defines additional relationship characteristics that grant access to additional objects being held by the additional user." This is because *Montague* is a simple database configuration that is implementing generic access control lists in their architecture. Nothing in *Montague* allows for additional users being able to control access to additional objects. Stated otherwise, *Montague* assigns permission to a benign component that is incapable of defining further access to other objects it holds. No component in the access lists of *Montague* can further define permissions for other objects that such a component might hold. Also, nothing in *Montague* discloses how the additional user would be granted access by the selected one, which in this case is not the owner. These important limitations are provided for in Independent Claim 1, but no reference of record includes such elements. Applicant has

⁴ MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. & App. and Inter. 1996)) (*emphasis in original*).

reviewed Montague in its entirety and finds nothing that would be relevant to such operations.

Turning to Independent Claim 15, Independent Claim 15 recites:

A method for regulating access to an object, the method comprising the steps of:
identifying an object or a set of objects to which access is to be regulated;
identifying an owner that has control of the object(s);
identifying a relationship path which would otherwise be a valid path;
allowing each relationship element to specify the maximum number of subsequent elements in the path; and
classifying that relationship path as invalid if for any element in that path the number of subsequent elements in the path exceeds the limit specified by that *element such that access to the object(s) is prohibited for all relationship elements in the path and only the owner can access the object(s)*.

No reference of record, including Montague offers an architecture that provides for "...classifying that relationship path as invalid if for any element in that path the number of subsequent elements in the path exceeds the limit specified by that element such that access to the object(s) is prohibited for all relationship elements in the path and only the owner can access the object(s)." Thus, Independent Claim 15 actually allows each relationship element to specify the maximum number of subsequent elements in the path and then subsequently denies access for all relationship elements when that limit is exceeded. In essence, access is completely shut-down when the limit reaches its threshold. Once that occurs, only the owner can subsequently access the object. These important limitations are provided for in Independent Claim 15, but no reference of record includes such elements.

For at least these reasons, Independent Claims 1 and 15 are allowable over the cited reference. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for analogous reasons.

Section 103 Rejection

The Examiner rejects Claims 10-12 under 35 U.S.C. §103(a) as being unpatentable over Montague in view of U.S. Patent No. 7,181,017 issued to Nagel (hereinafter "*Nagel*").

The Examiner also rejects Claims 2-3, 16-17, and 24-25 under 35 U.S.C. §103(a) as being unpatentable over *Montague* in view of U.S. Publication No. 2003/0191946 issued to Auer (hereinafter "*Auer*"). The Examiner further rejects Claim 23 under 35 U.S.C. §103(a) as being unpatentable over *Montague* in view of U.S. Patent No. 6,850,938 issued to Sadjadi (hereinafter "*Sadjadi*").

Applicant respectfully reminds the Examiner that to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation; either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior reference (or references when combined) must teach or suggest all of the claim limitations.⁵

It is respectfully submitted that the rejected claims are patentable over the art of record based on at least the third criterion of obviousness: none of the references alone or in combination teach, suggest, or disclose each and every claim limitation of the Independent Claims. For example, with respect to Independent Claim 23, no reference of record provides for "...allowing or disallowing the specified access to the object(s) based on the entity relationship(s) based on the highest level class relationship to the object, the within class resolution rule, and the equivalent class resolution rule." Note that the decision is based on **all three of these items**: something which is not accounted for in any of the cited references. In essence, this decision becomes comprehensive in nature, as it factors in all three listed items in making an access decision. No reference accounts for such activities.

Turning to Independent Claim 25, no reference of record provides for "...classifying that relationship path as invalid if for any element in that path the grantee of that element is the distrustee of the distrust relationship, whereby the invalid relationship path prohibits access of the object(s) by any element on the path and only an owner of the object or set of objects has access to the object(s)." These important limitations are provided for in Independent Claim 25, but no reference of record includes such elements.

⁵ See M.P.E.P. §2142-43.

It is also worth noting that, even if all elements of the claims were disclosed in various prior art references, which is certainly not the case here as discussed above, the claimed invention taken as a whole still cannot be said to be obvious without some reason why one of ordinary skill at the time of the invention would have been prompted to modify the teachings of a reference or combine the teachings of multiple references to arrive at the claimed invention.

The controlling case law, rules, and guidelines repeatedly warn against using an applicant's disclosure as a blueprint to reconstruct the claimed invention. For example, the M.P.E.P. states, "The tendency to resort to 'hindsight' based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art." M.P.E.P. § 2142.

The U.S. Supreme Court's recent decision in *KSR Int'l Co. v. Teleflex, Inc.* reiterated the requirement that Examiners provide an explanation as to why the claimed invention would have been obvious. *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727 (2007). The analysis regarding an apparent reason to combine the known elements in the fashion claimed in the patent at issue "should be made explicit." *KSR*, 127 S.Ct. at 1740-41. "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.* at 1741 (internal quotations omitted).

The new examination guidelines issued by the United States Patent and Trademark Office ("PTO") in response to the *KSR* decision further emphasize the importance of an explicit, articulated reason why the claimed invention is obvious. Those guidelines state, in part, that "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit." *Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in KSR International Co. v. Teleflex Inc.*, 72 Fed. Reg. 57526,

57528-29 (Oct. 10, 2007) (internal citations omitted). The guidelines further describe a number of rationales that, in the PTO's view, can support a finding of obviousness. *Id.* at 57529-34. The guidelines set forth a number of particular findings of fact that must be made and explained by the Examiner to support a finding of obviousness based on one of those rationales. *See id.*

For at least these reasons, all of the pending claims have been shown to be allowable as they are patentable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

ATTORNEY'S DOCKET
10737-01004
Confirmation No. 2080

PATENT APPLICATION
U.S. Serial No. 10/521,933


CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims. Applicant believes no fee is due.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at 214-823-1241.

Respectfully submitted,

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Date: June 26 2008

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